



Legislative Bulletin.....March 27, 2007

Contents:

H.R. 1401— Amendments to the Rail and Public Transportation Security Act

H.R. 1401, the Rail and Public Transportation Security Act (sponsored by Rep. Bennie Thompson, D-MS), is scheduled to be considered on the House floor today, March 27, 2007, subject to a structured rule (H.Res. 270), allowing one motion to recommit with or without instructions. All amendments are debatable for ten minutes each.

The rule waives all points of order except those regarding PAYGO and earmarks, deems the previous question as ordered, and allows the Chair to postpone consideration of the legislation at any time during its consideration.

Below are summaries of the eight amendments made in order under the rule.

Note: The summaries are based on RSC staff's review of *actual amendment text*. For a summary of the underlying bill, see a separate RSC document released yesterday.

RSC Contact: Paul Teller; paul.teller@mail.house.gov; 202-226-9718

1. *Thompson (D-MS): Manager's Amendment.*

- Adds "nonprofit employee labor organizations" to the list of entities that must be consulted when establishing the voluntary consensus standards for equipment and training under Section 125 of the underlying bill.
- Clarifies that the existing requirement that rail safety regulations be nationally uniform does NOT preempt state causes of action accusing negligence, recklessness, or intentional misconduct.
- Changes all references to "Amtrak" in the underlying bill to the "National Railroad Passenger Corporation."
- Makes the new grants for rail security assistance able to be awarded only to railroad carriers (and thus not to governments, as in the underlying bill).
- Clarifies that certain provisions in the bill that apply to rail and public transportation also apply to over-the-road buses.
- Expands the whistleblower protections for federal employees and contractors in the underlying bill to make several clarifying changes and to allow for original actions in federal district court for *de novo* (i.e. new) reviews of a claim, if the Secretary of Labor does not issue a final decision on the original whistleblower claim within 180 days.

- Strikes most of the numerous requirements that the Department of Homeland Security consult with the Department of Transportation in carrying out certain strategic assessments, grant programs, and other activities in the bill.
- Requires that the Secretary of Homeland Security jointly conduct the rail tank car vulnerability assessment (Section 126 of the underlying bill) with the Secretary of Transportation.
- Makes discretionary the underlying bill's requirement (in Section 128) that grant recipients under this legislation give preference to certain qualified anti-terrorism technologies, and clarifies that this provision does not undo any requirements under the Buy America Act.
- Adds a new GAO study (to be done once a year for the three years after this bill's enactment) on the administration and use of grants under the new railroad, public transportation, and over-the-road bus grant programs.
- Softens the transportation security canine team goals in the underlying bill (Section 201) by making them something to encourage, rather than ensure.
- Makes a multitude of technical and clerical changes to the underlying bill.

2. Arcuri (D-NY): Requires the Secretary of Homeland Security, in coordination with the Secretary of Transportation, to assess and report to Congress (within six months) on the safety and security vulnerabilities of placing high voltage direct current electric transmission lines along active railroad rights-of-way.

3. Cohen (D-TN): Directs the Secretary of Transportation, in consultation with the Secretary of Homeland Security, to establish a new program to coordinate with state and local governments to minimize the need for transportation by rail of toxic inhalation hazardous materials. No other details of the new program, such as cost or fiscal year limitation, are provided.

4. Castle (R-DE): Requires the Secretary of Homeland Security to study foreign rail security practices that are not currently used in the U.S. (some listed in the amendment text), as well as the costs and feasibility of implementing such practices here, and submit a report to Congress within one year on any recommendations for implementing such practices.

5. Sessions (R-TX): Prohibits funds in this legislation, except those for fire and life safety improvements to some New York, Baltimore, and DC tunnels (Section 108 in the underlying bill), from being used by Amtrak for any of the ten long-distance routes with the highest ratio of cost-per-seat to miles traveled (i.e. the biggest revenue losers), as noted in its September 2006 monthly performance report. This prohibition could be waived should the Secretary of Homeland Security deem a route or a portion of a route as critical to homeland security.

6. Flake (R-AZ): Strikes section 203 of the underlying bill, entitled "Transportation Security Administration Breeding Program Increase," which authorizes an increase in the number of domestically bred canines under the Transportation Security Administration's Puppy Program. See the website for the Puppy Program here:
http://www.tsa.gov/lawenforcement/programs/puppy_program.shtm.

7. Flake (R-AZ): Strikes the section 107 of the underlying bill, which creates a new grant program for over-the-road bus security.

8. *Lynch (D-MA)*: Provides that, not later than one year after the Secretary of Homeland Security issues the detailed worker training guidance required under Section 109 of the underlying bill, the Secretary would have to report to Congress on the progress of providers of covered transportation in meeting the worker training requirements and on the satisfaction of workers regarding the effectiveness and adequacy of the training programs (as determined by a survey of such workers conducted by the Secretary).

###